

By: Goldman

H.B. No. 2847

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of certain occupations and activities; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1001.001(7), Education Code, is amended to read as follows:

(7) "Driver education school" means an enterprise that:

(A) maintains a place of business or solicits business in this state; and

(B) is operated by an individual, association, partnership, or corporation for educating and training persons ~~at a primary or branch location~~ in driver education or driver education instructor development.

SECTION 1.002. Section 1001.151(e), Education Code, is amended to read as follows:

(e) The commission may establish a fee for an application for approval to offer a driver education course ~~by an alternative method of instruction under Section 1001.3541~~.

SECTION 1.003. Section 1001.204(b), Education Code, is amended to read as follows:

(b) The department shall approve an application for a driver education school license if the application is submitted on a form approved by the department ~~executive director~~, the application is

1 accompanied by ~~[includes]~~ the fee, and the department determines
2 ~~[on inspection of the premises of the school, it is determined]~~ that
3 the school:

4 (1) has courses, curricula, and instruction of a
5 quality, content, and length that reasonably and adequately achieve
6 the stated objective for which the courses, curricula, and
7 instruction are offered;

8 (2) has adequate space, equipment, instructional
9 material, and instructors to provide training of good quality in
10 the classroom and behind the wheel, if applicable;

11 (3) has instructors who have adequate educational
12 qualifications and experience;

13 (4) provides to each student before enrollment:

14 (A) a copy of:

15 (i) the refund policy;

16 (ii) the schedule of tuition, fees, and
17 other charges; and

18 (iii) the regulations relating to absence,
19 grading policy, and rules of operation and conduct; and

20 (B) the department's name, mailing address,
21 telephone number, and Internet website address for the purpose of
22 directing complaints to the department;

23 (5) maintains adequate records as prescribed by the
24 department to show attendance and progress or grades and enforces
25 satisfactory standards relating to attendance, progress, and
26 conduct;

27 (6) on completion of training, issues each student a

1 certificate indicating the course name and satisfactory
2 completion;

3 (7) complies with all county, municipal, state, and
4 federal regulations, including fire, building, and sanitation
5 codes and assumed name registration, if applicable;

6 (8) is financially sound and capable of fulfilling its
7 commitments for training;

8 (9) maintains and publishes as part of its student
9 enrollment contract the proper policy for the refund of the unused
10 portion of tuition, fees, and other charges if a student fails to
11 take the course or withdraws or is discontinued from the school at
12 any time before completion;

13 (10) does not use erroneous or misleading advertising,
14 either by actual statement, omission, or intimation, as determined
15 by the department;

16 (11) does not use a name similar to the name of another
17 existing school or tax-supported educational institution in this
18 state, unless specifically approved in writing by the executive
19 director;

20 (12) submits to the department for approval the
21 applicable course hour lengths and curriculum content for each
22 course offered by the school;

23 (13) does not owe an administrative penalty for a
24 violation of this chapter; ~~and~~

25 (14) meets any additional criteria required by the
26 department, including any applicable inspection requirements; and

27 (15) provides adequate testing and security measures

1 for the school's method of instruction.

2 SECTION 1.004. Subchapter F, Chapter 1001, Education Code,
3 is amended by adding Sections 1001.2531, 1001.2532, 1001.2533, and
4 1001.2534, to read as follows:

5 Sec. 1001.2531. DRIVER EDUCATION INSTRUCTOR REQUIREMENTS.

6 (a) The commission by rule shall establish standards for a driver
7 education instructor to be certified as a teaching assistant,
8 driver education teacher, or supervising teacher.

9 (b) An applicant for a driver education instructor license
10 under this section must:

11 (1) apply to the department on a form prescribed by the
12 department and under rules adopted by the commission;

13 (2) submit with the application a nonrefundable
14 application fee in an amount set by commission rule; and

15 (3) present satisfactory evidence to the department
16 that the applicant:

17 (A) is at least 21 years of age;

18 (B) holds a high school diploma or high school
19 equivalency certificate; and

20 (C) meets any other requirement established by
21 commission rule.

22 Sec. 1001.2532. TEACHING ASSISTANT. (a) A teaching
23 assistant is a driver education instructor who is authorized to
24 teach or provide only behind-the-wheel training.

25 (b) To be eligible to be certified as a teaching assistant,
26 a driver education instructor must:

27 (1) have successfully completed:

(A) six semester hours of driver and traffic safety education from an accredited college or university; or

(B) a teaching assistant development course approved by the department; and

(2) pass any required examination.

Sec. 1001.2533. DRIVER EDUCATION TEACHER. (a) A driver education teacher is a driver education instructor who is authorized to teach or provide behind-the-wheel training and classroom training.

(b) To be eligible to be certified as a driver education teacher, a driver education instructor must:

(1) have successfully completed:

(A) nine semester hours of driver and traffic safety education from an accredited college or university; or

(B) a driver education teacher development course approved by the department;

(2) pass any required examination; and

(3) comply with the additional requirements under Section 1001.2535.

Sec. 1001.2534. SUPERVISING TEACHER. (a) A supervising teacher is an instructor who is authorized to teach instructor training classes.

(b) To be eligible to be certified as a supervising teacher, a driver education instructor must:

(1) have been certified as a driver education teacher for at least one year; and

(2) have successfully completed:

1 (A) 15 semester hours of driver and traffic
2 safety education from an accredited college or university; or

3 (B) a supervising teacher development course
4 approved by the department; and

5 (3) must have:

6 (A) a teaching certificate and any additional
7 certification required by commission rule to teach driver
8 education;

9 (B) completed 15 semester hours in education
10 courses at an accredited college or university during the 10 years
11 before the application date; or

12 (C) obtained an associate or baccalaureate
13 degree in education from an accredited college or university.

14 (c) The commission, department, or executive director may
15 adopt an alternative method to determine or verify an instructor's
16 eligibility under Subsection (b).

17 SECTION 1.005. Subchapter H, Chapter 1001, Education Code,
18 is amended by adding Section 1001.3542 to read as follows:

19 Sec. 1001.3542. METHOD OF INSTRUCTION FOR DRIVER EDUCATION
20 COURSE. A driver education school may teach a driver education
21 course by any method approved by the department, including an
22 alternative method under Section 1001.3541 or a traditional method
23 under Subchapter C.

24 SECTION 1.006. The following provisions of the Education
25 Code are repealed:

26 (1) Sections 1001.253, 1001.254, and 1001.256; and

27 (2) Section 1001.3541(b).

1 SECTION 1.007. (a) As soon as practicable after the
2 effective date of this Act, the Texas Commission on Licensing and
3 Regulation shall adopt rules to implement Section 1001.204(b),
4 Education Code, as amended by this article, and Section 1001.2531,
5 Education Code, as added by this article.

6 (b) A driver education instructor license issued under
7 Section 1001.253, Education Code, before the repeal of that section
8 by this article, continues to be valid until the license expires,
9 and former Section 1001.253, Education Code, is continued in effect
10 for that purpose.

11 (c) A person who holds on the effective date of this Act a
12 driver education instructor license described by former Section
13 1001.253(b), Education Code, is entitled on expiration of that
14 license to issuance of a driver education instructor license
15 certified as a teaching assistant under Section 1001.2532,
16 Education Code, as added by this article, if the person otherwise
17 meets the requirements for renewal of a driver education instructor
18 license certified as a teaching assistant.

19 (d) A person who holds on the effective date of this Act a
20 driver education instructor license described by former Section
21 1001.253(c), Education Code, is entitled on expiration of that
22 license to issuance of a driver education instructor license
23 certified as a driver education teacher under Section 1001.2533,
24 Education Code, as added by this article, if the person otherwise
25 meets the requirements for renewal of a driver education instructor
26 license certified as a driver education teacher.

27 (e) A person who holds on the effective date of this Act a

1 driver education instructor license described by former Section
2 1001.253(e), Education Code, is entitled on expiration of that
3 license to issuance of a driver education instructor license
4 certified as a supervising teacher under Section 1001.2534,
5 Education Code, as added by this article, if the person otherwise
6 meets the requirements for renewal of a driver education instructor
7 license certified as a supervising teacher.

8 (f) The changes in law made by this article do not affect the
9 validity of a disciplinary action or other proceeding that was
10 initiated before the effective date of this Act and that is pending
11 before a court or other governmental entity on the effective date of
12 this Act.

13 (g) Sections 1001.2531, 1001.2532, 1001.2533, and
14 1001.2534, Education Code, as added by this article, apply only to
15 an application for, or renewal of, an instructor license submitted
16 to the Texas Department of Licensing and Regulation on or after the
17 effective date of this Act. An application submitted before that
18 date is governed by the law in effect when the application was
19 submitted, and the former law is continued in effect for that
20 purpose.

21 ARTICLE 2. BOILERS

22 SECTION 2.001. Section 755.029(c), Health and Safety Code,
23 is amended to read as follows:

24 (c) A certificate of operation must be posted [~~under glass~~]
25 in a conspicuous place on or near the boiler for which it is issued.

26 ARTICLE 3. MOLD

27 SECTION 3.001. Section 544.303, Insurance Code, is amended

1 to read as follows:

2 Sec. 544.303. PROHIBITION OF CERTAIN UNDERWRITING
3 DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. An insurer may
4 not make an underwriting decision regarding a residential property
5 insurance policy based on previous mold damage or a claim for mold
6 damage if:

7 (1) the applicant for insurance coverage has property
8 eligible for coverage under a residential property policy;

9 (2) the property has had mold damage;

10 (3) mold remediation has been performed on the
11 property; and

12 (4) the property was [~~+~~

13 ~~[(A) remediated, as evidenced by a certificate of~~
14 ~~mold remediation issued to the property owner under Section~~
15 ~~1958.154, Occupations Code, that establishes with reasonable~~
16 ~~certainty that the underlying cause of the mold at the property has~~
17 ~~been remediated, or~~

18 ~~[(B)]~~ inspected and certified by an independent
19 assessor, adjuster, or person or entity experienced in the
20 remediation of mold damage, as prescribed by the department, ~~[or~~
21 ~~adjuster]~~ who determined, based on the inspection, that the
22 property does not contain evidence of mold damage.

23 SECTION 3.002. Chapter 1958, Occupations Code, is repealed.

24 SECTION 3.003. (a) On the effective date of this Act:

25 (1) a license or registration issued under former
26 Chapter 1958, Occupations Code, expires; and

27 (2) an action, including a complaint investigation,

1 disciplinary action, or administrative penalty proceeding pending
2 before the Texas Department of Licensing and Regulation relating to
3 an alleged violation of former Chapter 1958, Occupations Code, is
4 dismissed.

5 (b) As soon as practicable after the effective date of this
6 Act, the Texas Commission of Licensing and Regulation shall repeal
7 all rules regarding the regulation of mold assessors and
8 remediators adopted under former Chapter 1958, Occupations Code.

9 (c) An administrative penalty assessed by the Texas
10 Commission of Licensing and Regulation or the executive director of
11 the Texas Department of Licensing and Regulation related to a
12 violation of former Chapter 1958, Occupations Code, before the
13 effective date of this Act, may be collected as provided by Chapter
14 51, Occupations Code.

15 (d) A mold remediation initiated before the effective date
16 of this Act is governed by former Section 1958.154, Occupations
17 Code, as that section existed immediately before the effective date
18 of this Act, and the former law is continued in effect for that
19 purpose. A person who held on the effective date of this Act a mold
20 assessment or mold remediation license under former Chapter 1958,
21 Occupations Code, may sign and provide a certificate of mold
22 remediation after the effective date of this Act for a mold
23 remediation initiated before the effective date of this Act.

24 (e) The change in law made by this article applies only to a
25 contract entered into or renewed on or after the effective date of
26 this Act. A contract entered into or renewed before the effective
27 date of this Act is governed by the law in effect immediately before

the effective date of this Act, and that law is continued in effect for that purpose.

(f) As soon as practicable after the effective date of this Act, the commissioner of insurance shall adopt rules required by Section 544.303, Insurance Code, as amended by this article.

ARTICLE 4. AUDIOLOGISTS

SECTION 4.001. Section 401.403(b), Occupations Code, is amended to read as follows:

(b) A person who holds a license ~~[meets the requirements of this chapter for licensing]~~ as an audiologist or audiologist intern and who fits and dispenses hearing instruments must:

(1) ~~[register with the department the person's intention to fit and dispense hearing instruments;~~

~~[(2)]~~ comply with rules adopted under this chapter related to fitting and dispensing hearing instruments ~~[the profession's code of ethics];~~

(2) ~~[(3)]~~ comply with the federal Food and Drug Administration guidelines for fitting and dispensing hearing instruments;

(3) ~~[(4)]~~ when providing services in this state, use a written contract that contains the department's name, mailing address, ~~[and]~~ telephone number, and Internet website address; and

(4) ~~[(5)]~~ follow the guidelines adopted by commission rule for a 30-day trial period on every hearing instrument purchased.

ARTICLE 5. ORTHOTIC AND PROSTHETIC TECHNICIANS

SECTION 5.001. The following provisions of the Occupations

1 Code are repealed:

2 (1) Sections 605.002(19), (20), and (21); and

3 (2) Section 605.259.

4 SECTION 5.002. (a) On the effective date of this Act, a
5 registered orthotic technician or registered prosthetic technician
6 certificate issued under former Section 605.259, Occupations Code,
7 expires.

8 (b) As soon as practicable after the effective date of this
9 Act, the Texas Commission of Licensing and Regulation shall repeal
10 all rules regarding the regulation of orthotic and prosthetic
11 technicians adopted under Chapter 605, Occupations Code.

12 SECTION 5.003. The change in law made by this article does
13 not affect the validity of a proceeding pending before a court or
14 other governmental entity on the effective date of this Act.

15 ARTICLE 6. DIETITIANS

16 SECTION 6.001. Section 701.151(b), Occupations Code, is
17 amended to read as follows:

18 (b) The commission or the department, as appropriate,
19 shall:

20 (1) ~~[adopt an official seal,~~

21 ~~[(2)]~~ adopt and publish a code of ethics;

22 (2) ~~[(3)]~~ establish the qualifications and fitness of
23 applicants for licenses, including renewed and reciprocal
24 licenses;

25 ~~[(4)] revoke, suspend, or deny a license, probate a~~
26 ~~license suspension, or reprimand a license holder for a violation~~
27 ~~of this chapter, a rule adopted under this chapter, or the code of~~

~~ethics,~~] and

(3) ~~[(5)]~~ request and receive any necessary assistance from state educational institutions or other state agencies.

SECTION 6.002. Sections 701.155 and 701.353, Occupations Code, are repealed.

ARTICLE 7. USED AUTOMOTIVE PARTS RECYCLERS

SECTION 7.001. Section 2309.102(a), Occupations Code, is amended to read as follows:

(a) The commission shall adopt rules for licensing used automotive parts recyclers ~~[and used automotive parts employees]~~.

SECTION 7.002. The heading to Section 2309.106, Occupations Code, is amended to read as follows:

Sec. 2309.106. PERIODIC ~~[AND RISK-BASED]~~ INSPECTIONS.

SECTION 7.003. The following provisions of the Occupations Code are repealed:

(1) Sections 2309.106(c) and (d), and

(2) Section 2309.154.

ARTICLE 8. EFFECTIVE DATE

SECTION 8.001. This Act takes effect September 1, 2019.